

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY DEWAYNE LEE TURNER,
Plaintiff,
v.
MICHAEL ULLERY, et al.,
Defendants.

No. 2:22-cv-0002 TLN KJN P

ORDER

Plaintiff is a former state prisoner, proceeding pro se. On March 15, 2023, plaintiff filed two documents pertaining to the appearance of witnesses at trial. As discussed below, plaintiff's filings are premature and, to the extent plaintiff seeks court intervention, such request is denied.

On March 7, 2023, the undersigned issued a discovery and scheduling order. This order also provided information as to what procedures plaintiff must follow if he intends to call incarcerated witnesses. (ECF No. 71 at 1-4.) Plaintiff was informed that should the matter proceed to trial, the parties would be required to file pretrial statements, at which time plaintiff must submit any motion for the attendance of incarcerated witnesses. (Id.) Therefore, plaintiff's filings are premature because the court has not yet ordered pretrial statements to be filed.

In his first filing, plaintiff seeks court intervention to subpoena RN A. Davis to testify at trial because plaintiff is indigent and cannot afford the witness fee plus travel expenses. (ECF No. 73 at 1.) Plaintiff has been granted leave to proceed in forma pauperis. However, as the


1 court previously explained, “because no statute authorizes the use of public funds for these
2 expenses in civil cases, the tendering of witness fees and travel expenses is required even if the
3 party was granted leave to proceed in forma pauperis.” (ECF No. 71 at 4.) Because this court has
4 no authority to pay for witness fees and travel expenses, plaintiff’s request is denied.

5 Plaintiff’s second filing is styled, “Motion for Affidavit Showing Good Cause
6 Referencing Deposition.” (ECF No. 74.) However, such filing does not ask for court
7 intervention, but rather identifies those incarcerated witnesses who have agreed to testify
8 voluntarily. As explained above, such witnesses are to be identified in a motion filed with the
9 pretrial statement, which the court has not yet ordered. At this time, discovery is ongoing and
10 dispositive motions have not yet been filed. Thus, both of plaintiff’s filings are premature and are
11 disregarded.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff’s March 15, 2023 request that the court pay witness fees and travel costs for
14 RN A. Davis (ECF No. 73) is denied; and
- 15 2. Plaintiff’s March 15, 2023 filings (ECF Nos. 73, 74), are disregarded as prematurely
16 filed.

17 Dated: March 29, 2023

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19 KENDALL J. NEWMAN
20 UNITED STATES MAGISTRATE JUDGE

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